

Building Public Service-Oriented Government in China
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Colin Knox (University of Ulster, United Kingdom)
Zhang Qun (The People's Congress, Liaoning Province, China)

Contact details:

Colin Knox
School of Policy Studies
University of Ulster
Shore Road
Jordanstown
Northern Ireland
BT 37 OQB
Email: cg.knox@ulster.ac.uk
Telephone +44 (0) 28 90366667

Zhang Qun
Legislative Affairs Commission
The People's Congress, Liaoning Province
No.39 Chongshan East Road
Shenyang
China 110033
Email: lnzhangq@yahoo.com.cn
Telephone: +86 (0) 2486681927
13464019829

Abstract

Purpose: Legislative hearings are a relatively new way of encouraging citizen participation in administrative law making within China. The first such hearing in Liaoning Province (Dalian City) was held in April 2005. This paper examines the detail of the hearing process and attempts to assess its effectiveness as a mechanism for engagement between citizen and the state.

Methodology: The authors consider both the practicalities of running a public hearing and its influence on the legal regulations under scrutiny. More generally, and within the limits of one case study, we consider whether hearings have the potential to shift the balance of power away from the state and its officials towards a more inclusive form of decision making.

Research implications: Finally, the paper examines whether citizen participation, as a means of public service-oriented government in China, has been influenced by the wider global reform process of New Public Management (NPM) and modernisation, synonymous with developed countries.

Key words: citizen participation, legislative hearing, modernisation.

Type of paper: case study

Introduction

A key component of New Public Management is the principle of participation or engaging with citizens and service users in a variety of processes which will allow them to influence the policy process in government (Hughes: 1998, Massey and Pyper, 2005). This approach stresses that one route to modernising public services is to involve citizens in a 'bottom-up' way where their views are an integral part of the decision making process, normally the preserve of politicians and public sector officials. Whilst this concept has intuitive appeal – who could disagree with greater inclusivity and involvement of citizens, not least because it encourages ownership of decisions – it may well have practical limitations. Pollitt and Bouckaert (2004: 155), for example, point out in relation to Western democracies that while more citizens are willing either actively or passively to resist and criticise public authorities, this does not necessarily mean that they want to play a much bigger part in the process of reaching decisions. They claim 'the evidence is mixed: many members of the public may want 'more say' but that is a far cry from full-blooded and time-consuming participation'. Yet in the United Kingdom, for example, the government initiative entitled *Putting People at the Heart of Public Services* (2004) highlights the importance of a citizen-focused approach to the provision of public services.

This paper will examine citizen participation in China within the wider context of public management reforms globally. It will use a case study approach of the *Legislative Hearing System* as a means of demonstrating how Chinese public administration has 'opened up' and become much more public service oriented. The case study will consider a public hearing (April 2005) concerned with developing legal regulations on the

implementation of road traffic safety measures in Dalian City. The focus of the discussions will be less concerned with the substantive issue, important as this is, but more with the processes which were central to the public hearing. This paper will examine how effective participation in the process proved to be. It will attempt to address fundamental and unresolved issues around:

- The selection of witnesses and their rights to contribute to the debate.
- The scope of the hearing, how the parameters were set and by whom.
- The balance between efficiency in drafting regulations set alongside the lengthier process of including the views of citizens.
- The status of stakeholders in the process – the rights and obligations of participants and the hearing moderators.
- The extent to which participation proved influential in finalising legal regulations.

Given the experimental nature of citizen involvement in law making, this case study will therefore examine one model of participation which could be rolled out to other cities and provinces in China. We conclude the paper by reflecting on citizen participation in China generally, and the extent to which this case study offers insights into a more inclusive form of decision making for other public services.

The Context

The People's Republic of China has a population of almost 1.3 billion people, is twice the size of Western Europe and the third largest country in the world after Russia and Canada. There are three major hierarchies in China: the Chinese Communist Party (CCP), the government and the military. The supreme decision-making body in China is the CCP Politburo and its 9-member Standing Committee, which acts as a kind of 'inner cabinet', and is headed by the General Secretary of the Chinese Communist Party. The National People's Congress (NPC) is China's legislative body. It has a five-year

membership and meets once a year in plenary session. However, in practice it is the CCP who takes all key decisions. From 1979 onwards, following the death of Mao Zedong, the Communist Party launched a major programme of social and economic reform with the aim of modernising their economy, developing external relations with the West and gradual but limited liberalisation of Chinese society. Since then, there have been lapses in the pace of reform, not least in 1989 with the suppression of pro-democracy activists in Beijing. More recently the leadership of China: President Hu Jintao, Premier Wen Jiabao, and NPC Chairman Wu Bangguo, have committed to key policies of economic growth, internal stability and its so-called ‘open door’ policy. China is, in practice, a one party state. The National People's Congress (NPC) is indirectly elected. The legislature remains subject to Party leadership. However, since 1987 the NPC has been building its oversight capacity over the actions of the government (UK: Foreign and Commonwealth Office, 2006).

In examining the extent to which public service oriented reforms have taken place in China, it is worth locating the country's development in the wider international context of promoting good governance. ‘Governance’ is defined by the OECD as ‘the formal and informal arrangements that determine how public decisions are made and how public actions are carried out’ (OECD, 2005: 16). The World Bank captures good governance through the measurement of six key dimensions: voice and democratic accountability; political stability and the absence of violence; government effectiveness; regulatory quality; the rule of law; and control of corruption. We locate the research presented in this paper within the rubric of improving ‘voice and democratic accountability’, defined by the World Bank (2006: 6) as ‘the extent to which a country's citizens are able to

participate in selecting their government, as well as freedom of expression, freedom of association, and a free media'. The World Bank links vibrant democracies with limited corruption but argues that countries with voice and accountability challenges such as China and the Russian Federation tend to have more corruption. Table 1 illustrates 'voice and accountability' indicators for the countries with the largest GDP in the East Asia region for 2005. Percentile rank indicates the percentage of countries worldwide that rate below the selected country (subject to margin of error). Higher values indicate better governance ratings. The data show that China has the worst record for 'voice and accountability' by far (aside from Vietnam) of countries in the region.

Table 1: Voice and Accountability - Comparison across selected countries (2005)

Country	Percentile Rank (0 - 100)
CHINA	6.3
HONG KONG	52.2
INDONESIA	40.6
KOREA, SOUTH	68.1
MALAYSIA	34.3
PHILIPPINES	47.8
SINGAPORE	38.2
TAIWAN	69.1
THAILAND	49.3
VIETNAM	7.7

Source: Kaufmann, D., Kraay, A. and Mastruzzi, M. (2006)

Within China, the selection of a case study in Liaoning Province to research legislative hearings as an example of 'voice and accountability' is based on a number of reasons. First, the case study is the first local hearing in Dalian City which is considered symbolic within Liaoning Province in leading the way to improving the democratisation of the

administrative legal system. Second, major cases of corruption and the diversion of public funds were unveiled in Shenyang (Liaoning Province) during 2000 which reached the highest levels in the Chinese Communist Party. Examining this province therefore affords the opportunity to evaluate efforts to improve governance arrangements. Third, one of the authors of this paper is a legal official in the Legislative Affairs Commission of the People's Congress in Liaoning Province and has acted as a non-participant observer in legislative hearings in several provinces, including the Dalian case study below. Interviews were also conducted with the key stakeholdersⁱ involved in the hearing and form the basis of the data presented here.

Citizen Participation

The literature on citizen participation is extensive. DeLeon (2005) summarises the key themes within the research. She refers to work by Pollitt (2003) and Moynihan (2003) who both offer classifications on ways of involving the public, ranging from information, through consultation, to allowing them full two-way iterative participation. Moynihan's work questions why if participation is a good idea there appears to be so little of it, and concludes that 'participation is time-consuming and frustrating and may not even produce better outcomes than decision making by professionals' (DeLeon 2005: 116). Before considering the detail of the case study we draw on three specific areas of the literature in which to locate the examination of the Chinese legislative hearing process. First, we examine what is meant by citizen participation and how this can be operationalised in practice; second, we refer to previous research on the 'right' approach to, or methods for, public participation; and finally we set out a rubric for evaluating the effectiveness of legislative hearings, heralded as public service oriented government.

Citizen participation is one element of the wider movement towards new public management and modernisation which have been characterised as follows:

- A separation of strategic policy from operational management.
- A concern with results rather than processes and procedure.
- An orientation to the needs of citizens rather than the interests of the organisation or bureaucrats.
- A withdrawal from direct service provision by the state in favour of a steering or enabling role.
- A changed, entrepreneurial management culture (Minogue, 2001:21).

Such is the importance of participation and consultation with the public that OECD countries (Organisation for Economic Co-operation and Development) argue governments increasingly realise that they will not be able to conduct and effectively implement policies if citizens and business do not understand and support them:

Citizens increasingly expect to be informed in advance about decisions that affect them. Today, public consultation on law making and rule making is increasingly accepted as a valuable means of improving the quality of public policy while strengthening its legitimacy (OECD, 2005: 187).

Thus, the OECD suggests, governments are looking for new ways of engaging a wider range of actors throughout the policy-making process. Yet researchers have found an ever growing list of techniques which have been used to promote engagement (Rosener, 1975). These include a raft of mechanisms from citizens' panels, public meetings, and citizens' juries, through to questionnaire based surveys, ballots, referenda and deliberative polling.

The terms used are however confusing – is citizen 'participation' the same as citizen 'involvement' or 'engagement'? One definition offered by Rowe and Frewer (2005: 253) is that citizen participation is 'the practice of involving members of the public in the agenda-setting, decision making, and policy-forming activities of organisations/

institutions for policy development’. Yet they find this definition too broad because the public may be *involved* in a number of different ways or at a number of different levels. Instead, they offer further differentiation based on the flow of information between participants and government (see table 2). Citizen *communication* is where information is conveyed from the government body to the public; citizen *consultation* is where information flows from the public to the government following a process initiated by the latter; and citizen *participation* is where information is exchanged between the public and government – some degree of dialogue takes place.

Table 2: Flow of Information		
Citizen communication: Government	→	Citizen representatives
	Examples: Information broadcast (TV, newspaper, radio) Public meetings, <u>hearings</u> Drop-in centres	
Citizen consultation: Government	←	Citizen representatives
	Examples: Opinion polls Referendum Survey Consultation document Focus group Interactive web site Citizens’ panel	
Citizen participation: Government	↔	Citizen representatives
	Examples: Citizens’ jury Task force Deliberative opinion poll Action planning workshop	
Adapted from: Rowe and Frewer (2005: 255) – authors’ emphasis		

In fact Rowe and Frewer categorise public hearings as the most limited engagement mechanism – citizen communication. They argue that this mechanism relies on the public to come to the information rather than vice versa. As such, they contend, the involved public is largely self-selected and biased in terms of those most proactive and interested. Information is communicated face-to-face by government and is variable, depending on how comprehensively organisers wish to communicate with citizens.

Martin (2003) has argued that many public organisations focus a great deal of effort on choosing the ‘right’ approach to public participation. In practice however, he suggests, there is rarely one correct method. Some approaches such as public meetings, citizens’ juries and focus groups offer a high level of interaction but reach only a small proportion of the population. They are also relatively costly, time consuming and require skilled facilitation. Other methods such as citizens’ and users panels and residents’ surveys, offer breadth of coverage and are relatively cheap, but they provide less in-depth interaction. Hence Martin concludes that most organisations need to have a balanced portfolio of approaches that are tailored to the:

- Objectives of engaging with users and citizens.
- Resources available to those managing the process.
- Timescale.
- Capacity of respondents (Martin, 2003: 197).

In terms of evaluating the effectiveness of public participation processes such as the case study we will examine, the literature is helpful. Burton (2004) considers three issues to be important in making a judgement on the effectiveness of public participation. First, who should participate? Second, which type of decision is it – strategic decision, programmatic decision or one about individual cases? And third, what is the nature of

the participatory relationship – will the public participation exercise be used by whoever is going to take the decision or will their views be ignored or misrepresented?

A similar but expanded evaluative framework has been developed by Baker et al, (2005) who have identified at least six useful standards for evaluating public participation as follows:

- Participants should be representative of the broad public.
- Proceedings should be fair, cost-effective and flexible.
- Proceedings should increase the public's understanding.
- Proceedings should enable citizen participation and influence discussion and decision making.
- Proceedings should promote improved decision making.
- The public should have at least some degree of satisfaction with the outcome, resulting in subsequent sustained public participation.

We now consider in some detail a case study of a legislative hearing in Dalian City describing the process of engagement and whether, using Baker et al's criteria above, it could be seen as effective. Although the limitations of a single case study are acknowledged, we reflect more generally on whether this provides some narrow insights into the changing nature of state and society in China.

Case Study: Dalian Road Traffic Safety

Purpose of the hearing:

The first legislative hearing in Liaoning Province, Dalian City, was heard on 7th April 2005. The purpose of the hearing was to consider draft regulations on the implementation of road safety issuesⁱⁱ. The decision to convene the hearing was taken by the Legal Affairs Office and the Police Department of Dalian Municipal Government and approved by the Deputy Mayor of the City. The *Regulation of the State Council on Regulation-Making Procedures* demands that drafting institutions investigate the background to

proposed regulations, summarise practical experiences of citizens and related organisations, and highlight the key issues involved. They can collect information in a variety of ways, through written or oral evidence, hearings, and meetings with key stakeholders and invited experts. The Legal Affairs Office, where the issue is seen potentially to have a major impact on citizens or organisations, can (at its discretion) decide to hold a public hearing at the examination stage. In this case the matters under discussion were considered by the Legal Affairs Office to impact directly on citizens and a hearing was initiated. This was the first local hearing within Dalian City (population 6m people), considered to be a symbol of (administrative) legislative democratisation in Liaoning Province.

Four items were the subject of the draft regulations and therefore the hearing:

- Motorcycles, portable motorcycles and electric bikes must be registered before been driven on the roads. Some identified districts (within the Municipality) do not permit these forms of transport. Dalian Municipal Government would therefore assume overall legal control of motorcycles, portable motorcycles and electric bikes through a registration process.
- No passengers would be permitted on bicycles, electric bikes and tricycles.
- Motor vehicles could not have dark blast-proof film on their windows which might stop police executing laws (Safety of Road Traffic and its supporting regulations). Film on windows may limit the vision of car drivers and prevent police observing drivers' behaviour.
- There were to be more green flashing lights (warning drivers that traffic lights will change suddenly as a safety measure).

Structure and format of the hearing:

Given the topicality of this issue and how transportation impinges on everyday life, one would have expected considerable local interest. However, Dalian Municipality had previously banned the use of motorcycles, portable motorcycles and electric bikes within

selected districts through a Municipal Order and hence these proposed draft regulations were simply to give legal status to the Order. The panel established to run the hearing comprised 8 members: Deputy Director of the Legal Affairs Office, Deputy Director of Police, 4 division chiefs (two from legislative department of the Legal Affairs Office and the others from the legal affairs department and traffic department of the Police Department) and 2 staff members (Legal Affairs section of the Police Department). The composition of the panel is normally decided by the panel convenors, the Legal Affairs Office and the Police Department. The precise role of the panel is unclear. In practice, however, the panel presents the final report after listening to the hearing. The Deputy Director of the Legal Affairs Office was the moderator/chair of the hearing (Mr. Jinjun Ding). A public notice was issued via the press (Dalian Daily) 30 days in advance of the hearing, inviting any individual or organisation to participate in the proceedings. Details included the main purpose of the hearing, guidelines for its operation, composition of the panel, the items to be considered, the process of witness selection and registration. The rights and obligations of the witnesses and panel members, the hearing procedure, and how it would be reported did not appear in the press notice and were unavailable to the public.

Citizens and organisations intending to make oral submissions to the hearing had to register in advance. At the time of registration, witnesses had to outline their positions on the proposed regulations, giving reasons for their standpoints. The hearing intended to select 16 witnesses from a wide range of stakeholders – 8 in favour of the draft regulations and 8 in opposition to the measures. The number of witnesses largely depends on the duration of the hearing, its location and size. This kind of hearing generally spends

a half day or a whole day. In this case, the organizer decided to arrange 16 witnesses for each item in order to collect opinions and finish the hearing within the allocated time. The number of witnesses is therefore at the discretion of the organisers. The basis of selection was the order in which interested parties registered for the hearing (first come, first served) and an equal numerical representation of two opposing stances. In fact only 6 individuals (no groups) registered from which 4 were selected to be witnesses, two in favour of the regulations and two against them (to have included the other two witnesses would have skewed the numerical balance for and against the draft regulations). Moreover, the six people who registered expressed an interest in the first hearing item only – registration of the different forms of transport. No public interest was expressed in other issues within the remit of the hearing and hence these remained uncontested.

The hearing process and outcome:

The hearing process was quite formal and legal in tone. The moderator (a legally trained official in the employment of the Municipality) opened the hearing with the announcement of its goal, items to be considered and the guidelines for its operation. Witnesses were asked to introduce themselves, and the moderator enquired if there were any objections to the participants. The hearing was open to the public but only attracted a small media presence. The divisional police department chief on the panel explained the proposed regulations in some detail, after which witnesses were given the opportunity via a 5 minute (strictly enforced) presentation to state their views. The four witnesses argued for and against the proposals (two from each perspective) putting forward evidence as to why the regulations should or should not be approved. Since those registering an interest

expressed concern about the first of the four items in the draft regulations, discussion was confined to this topic - registration of the different forms of transport.

Key arguments expressed in favour of regulating and therefore controlling these 3 forms of transportation (motorcycles, portable motorcycle and electric bikes) were, that compared to other vehicles, they take up valuable road space yet carry less passengers. They are often involved in traffic accidents and because of their unsteadiness were therefore unsafe. Those arguing against the process of registration/regulation claimed that the Municipality was proposing these restrictions for aesthetic reasons rather than the convenience of its citizens – these vehicles represent a cheap and accessible form of transport for many people; such restrictions were essentially iniquitous as they would have a disproportionate impact on lower income citizens who could not afford private cars. Moreover, Dalian Municipal Government's overall control of transportation through registration would lack transparency in the number of licences issued. The panel listened to the arguments and asked only questions of clarification, hence the witnesses were not cross-examined by the panel but could receive questions from the opposing participants.

At the conclusion of their evidence the moderator summarised the whole process, and witnesses examined and signed contemporaneous recordings of their evidence to the hearing. Following the hearing, the panel published a report (which was unavailable to the public or media) drawing on the evidence of witnesses and submitted this to Dalian Municipal Government. The report was considered by its standing committee and the final road safety regulations were retained in their original format but for a minor procedural amendment, suggested by a witness, which required the Police Department to

make data available for inspection by the public on the number and list of vehicle registrations each year in an effort to promote transparency.

Effective engagement?

Returning to the Baker et al (2005) framework for evaluating the effectiveness of public participation, we benchmark the Dalian legislative hearing against the standards set out in the literature.

Representative of the public: The obvious question in relation to the Dalian case study is whether the participants were representative of the broad public? Given that only six people expressed an interest in the hearing proceedings, from which 4 were selected to participate, this can hardly be deemed a success. Hence, before even examining the issue of representation some consideration must be given to the low level of expressed interest. Why did a hearing on such a topical and local issue generate so little response? Three reasons are suggested. First, the hearing was not well publicised by the press and therefore many citizens were unaware that it was taking place. Second, there still isn't an effective communication channel between citizens and government, itself a key obstacle to develop 'public service-oriented government'. Third, citizens' prior conceptions are that they have limited/no influence on law-making which is viewed as the preserve of the government. Given that Dalian Municipality had already banned the three modes of transportation through an administrative order, it was unlikely that such a decision would now be overturned in light of a hearing. Citizens could have been forgiven for thinking that the hearing was simply a means of formalising in law the existing ban on these vehicles.

Fair and flexible: The case study indicates that the details of the hearing and its procedural mechanisms were agreed and disseminated well in advance of the proceedings. The hearing process was well-regulated and complied with strict legal procedures. This poses questions around the balance to be achieved between a mechanism which seeks to enhance public participation and one which assumes the aura of a court room. The more legally prescribed the procedures are, the less flexible and more intimidating they become for members of the public to participate. Legal fairness can be at the expense of a welcoming environment in which to engage. Moreover, there appears to be no Province-wide application of the way in which hearings should be conducted which can lead to different standards and procedures. Typically, the legal status of the moderator was unclear and the weight given to his/her opinion in the context of oral presentations by citizens. Importantly, a panel comprising officials employed by the Municipal Government which is sponsoring the draft regulations but, at the same time, acting as ‘independent’ arbiters of the hearing poses key questions about the fairness of the process.

Increased public understanding: It is not at all clear that the Dalian case study increased the public’s understanding. Given the low public response, the very limited media attention to the proceedings, and lack of public interest in the outcomes, it seems unlikely that the hearings increased public understanding. Proceedings should enable citizen participation and influence in discussion and decision making. The strict enforcement of the 5 minute rule for citizens’ contributions and the limited extent to which their views featured in the final regulations suggest that those participating had little influence on the decision making process. Participants could not express their views fully and the weight

of opinion afforded to those opposing the regulations was unclear. There was no opportunity for cross-examination of witness presentations by the panel. Indeed witnesses did not receive any formal feedback on their participation but learned the outcome of the hearing from the press when the approved regulations were published. This highlights the limitations of their involvement. More generally however, the basis of consensual decision making or participative decision making is still relatively new in China and needs to be nurtured before citizens see it is a worthwhile exercise.

Influence on decision-making: The absence of effective debates during the hearing, again would suggest that the decision making process was not improved significantly by this process. The fact that the rights and obligations of participants were not defined makes the whole nature and import of their contribution questionable. The Dalian case study will do little to promote the message that legislative hearings are an important mechanism for improving decision making. The public should have at least some degree of satisfaction with the outcome, resulting in subsequent sustained public participation. In the Dalian case, all the evidence suggests the outcome was a foregone conclusion – participation was little more than tokenism confirming the legal status of a pre-existing administrative order. The public dissemination process was very disappointing – no citizens (beyond the witnesses) attended the hearing and the press did not report the details, rather it appeared as a short news piece the following day. It is difficult to see how citizens were satisfied with this hearing which could result in public apathy about the process and lead to its abandonment by officials as a nugatory exercise in citizen participation.

Public Service Orientation

What, within the confines of one case study, can we say about the legislative hearing process as a mechanism for securing citizen participation and developing a public service orientation in law/regulation making? Reddel and Woolcock (2004) have argued that notions of citizen engagement and participatory governance represent attempts by researchers, policy maker and practitioners to address the changing nature of state/market/civil society relations. More specifically, Paler (2005) has suggested that lawmakers in China hope to import and adapt foreign democratic practice through public legislative hearings in a way which will make the local legal decision making process more transparent but without threatening the authority of the state. She estimates that more than 25 hearings have been held to date in provinces and cities around China focussed mainly on local levels of governance and have not yet been used in national legislation (this has since changed as a legislative hearing was held for the first time in September 2005 on the question of raising the personal income tax exemption threshold, the remit of the National People's Congress). The hearings tend to be on practical pieces of legislation, she notes, mostly in areas of socio-economic development or public welfare. She concludes her analysis of the hearings system by claiming:

As long as lawmakers in China continue to focus on the practicalities of hearings as opposed to their role and function in a democratic system – and the intrinsic relationship between hearings, accountability and representation – it remains to be seen whether hearings will be adapted successfully for use in the Chinese legislative process (Paler, 2005: 317).

Whilst undoubtedly true, it is only by considering the practicalities of hearings that we can make a judgement on how effective is their role and function. Paler holds out the possibility 'in looking behind Legislation Law' that there is 'a shifting balance of power

amongst political institutions’ and ‘citizens may be gaining influence in the long process of legislative reform’ (Paler, 2005: 318). Evidence available from other legislative hearings in five Chinese cities (Guiyang, Shenzhen, Wuhan, Chongqing and Guangzhou) indicates a largely positive response to their introduction as a method for soliciting greater public input on issues of legislation and governance. Aside from the inconsistent procedural issues in conducting hearings, the more fundamental question raised by the experience of other Chinese cities is about guaranteeing the effectiveness of a hearing in the legislative process, in the absence of other democratic institutions. Experience in other areas of China also suggests that the role of hearings should not be exaggerated, and the indirect influences of legislative hearings could be greater than their direct impact (National Democratic Institute, 2003).

From our case study and the general participation literature we consider that there are three key issues to be addressed in relation to legislative hearings. First, there is an obvious need for practical help in operating hearings, essentially to maximise their potential as a form of engagement. Second, and more widely, does the emergence of legislative hearings herald a change (albeit small) in the nature of the relationship between citizen and state? And thirdly, is China being influenced by Western notions of New Public Management and to what extent can it or should it adapt/adopt these ideas? We consider each of these issues in turn.

Practical improvements in operating hearings: Several ideas need to be considered in an attempt to promote a positive change in the process or mechanism for engagement. The issue which is the subject of the hearing will directly correlate with attendance. The larger the number of people affected by the proposed regulations, the greater the public

interest. Hence legal authorities need to be mindful that in selecting issues for public hearings, they should be judicious to be effective. The publicity material advertising the event needs to be both interesting and well-placed to attract maximum attention – there is little point in putting on a public hearing if few people are aware of its existence. This should include more original thinking than simply placing a fairly formal (public body) advertisement in the local newspaper(s) which readers may pay little attention to. Organisers could use leaflets, posters, written communication with potential interest groups, NGOs and other stakeholders. The law making agencies (police, legal affairs department and municipality) need to be clear about what exactly they want from the hearing and how they will use the information from the participants. A key consideration in public hearings is the target audience. It is difficult to secure a representative section of the population at hearings and the convenors need to be mindful of this in two ways. They should organise hearings at a time and location most likely to attract a range of people (outside of working hours and at an easily accessible venue) and, importantly, they should not use hearings as the only mechanism for engagement, given their limitations. It is also worth trying to elicit information from those citizens who attend hearings (via a short questionnaire or focus group) – what were their motivations, how useful did they find the exercise, would they be encouraged to participate again. This information can tell you as much about non-attendees as those who did attend.

It is also important that there are clear role definitions and that participants are aware of these. What is the precise role of the moderator/chair and panel members – can they, for example, interact with participants? What is the role of participants and the rules of engagement – time allowed, weight attached to their (competing) views, how their views

are recorded (verbatim or note form), and how their opinions will be dealt with in the process. The worse outcome from a public hearing is that participants who have volunteered their inputs feel that it amounts to little more than token participation and is simply an exercise in affirming the *a priori* views of the legal agencies involved in developing the regulations, as the Dalian case would suggest. In other words, referring back to Rowe and Frewer's (2005) framework, the flow of information in legislative hearings can be defined as 'communication' from the government to the public.

Key to effective participation is transparency. Even if citizens' views are not accepted by the legislative hearing, documenting the various perspectives, weighing up evidence and reaching a conclusion needs to be done in a transparent way to give the process credibility. At one end this could mean publicly recording hearings, through to an official report of the evidence, and how the hearing reached the final outcome. Citizens need to be assured that promoting the vested interests of departments is not the key reason for hearings and that participation mechanisms are robust and transparent. In summary, public hearings do provide a useful mechanism for citizens to comment on matters which affect them directly or indirectly and offer an opportunity for legal agencies to build a relationship with the public and, at the same time, can be used to inform as well as gather views. Key disadvantages however are the unrepresentative nature of attendees, apathy amongst the public and their lack of detailed knowledge to contribute on technical or legal matters where they are unaware of the broader strategic interests of public bodies (in this case, for example, the environmental impact of the increasing use of motorcycles).

The relationship between citizen and state: Moving from one case study of a legislative hearing to such a fundamental issue as to whether this type of engagement signals a change in the relationship between citizen and state requires a huge intellectual leap of faith. Yet this case study provides less grounds for optimism than Paler in her assertion that ‘citizens may be gaining influence in the long process of legislative reform’ (Paler, 2005: 318). In part, our pessimism could have more to do with the inexperience of those organising the first hearing in Dalian and lessons may be learned which improves the process in the future. On the other hand, the process smacks of what Yongshun Cai (2004: 425) refers to in relation to the appeals system, where citizens can approach higher-level authorities to report problems that have not been addressed by local authorities, as ‘managed participation’. The ineffectiveness of the Dalian hearing could therefore be interpreted in one of two ways – first, and most benignly, a genuine but bungled effort to positively engage or second, a process of managed participation by officials. Yet academic observers have highlighted the importance of the law in renegotiating state-society relations. Saich (2004: 223), for example, suggests that ‘there has been an increasing appreciation that law can play a role in moderating official excesses and governing relations between state and society, and that there should be increased accountability of officials not only to the party but also to society’. He is however cautious about suggesting a new civil society in China:

While it is true that public discourse is breaking free of the codes and linguistic phrases established by the party-state, it is also clear that no coherent alternative vision has emerged that would fashion either a civil society or a rapid construction of a democratic political order (Saich, 2004: 223).

The question remains therefore whether legislative hearings within the wider context of governance reforms represent a small but important shift in the balance of power from

state to citizen. Empirical evidence from the World Bank may help to address this question. On their six indicators of good governance, data collected for China over the period 1998 to 2005 show a marginal improvement in the ‘voice and accountability’ indicator of governance. Although starting from a very low baseline, ‘voice and accountability’ and ‘regulatory quality’ are the only two indicators of governance which demonstrate an improving situation – all others (political stability, government effectiveness, rule of law and control of corruption) show a deterioration. This is illustrated in figure 1- the percentile rank indicates the percentage of countries worldwide that rate below the selected country (subject to margin of error). Higher values indicate better governance ratings. Of course, there is no proven causal link between the introduction of legislative hearings and improvement in voice and accountability, but it is reasonable to suggest effective hearings at least contribute to this indicator of good governance.

China: Indicators of Governance

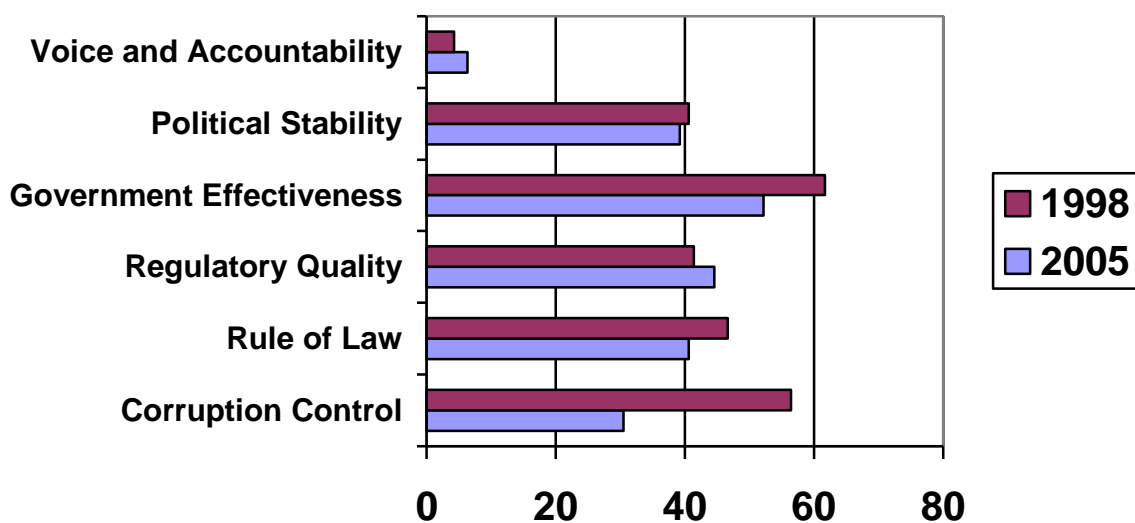


Figure 1: Source - Kaufmann, D., Kraay, A. and Mastruzzi, M. (2006)

Modernisation and New Public Management: Has China's movement to a socialist market economic system also embraced ideas synonymous with New Public Management and public service modernisation, within which citizen participation is a core element? The messages are mixed here in that the role of the state has not declined as one might expect with the expansion of the market economy. Saich (2004:342) argues that there is a continuation of preferential treatment for the state-owned sector, a continuing bias against the private sector, and 'an administrative structure that cleaves too closely to that of the pre-reform era'. This would not suggest a concerted programme of public sector reform and hence ideas of citizen participation in a public service oriented government may owe little (if anything) to public management reforms in developed economies. Indeed China has remained remarkably impervious to Western trends in administrative reforms. As Dwivedi (2003) suggests:

China provides a favourable context for the social acceptance of a paternalistic public bureaucracy. Both the culture and the political system emphasise unified leadership and authority, mutual dependence, moral incentives and conformity of thought... There is cultural discontinuity between values prevailing in society and those imported from outside in the name of such 'fancy' innovations as New Public Management or Good Governance... China has remained remarkably true to its own cultural and historical origins. That is why external reforms have been difficult to introduce in the public sector and why the bureaucracy remains paternalistic and often discretionary in its relations with the public (Dwivedi, 2003: 517)

Citizen participation in legal hearings may well be an example of the 'discretionary' nature of state-citizen relations rather than any pre-conceived or Western informed notion of modernisation. What the literature on public sector reforms also reminds us is that modernisation is context dependent – there is no global blueprint. Equally, advocates of New Public Management have been criticised for some of its disagreeable consequences. Dent and Barry (2004) suggest managerialism does not offer a 'magic bullet' or toolkit

for the problems in the public sector. In fact the evidence of superior efficiency claimed by NPM advocates has been questioned in recent years on the grounds that even if efficiency is achieved, equity might suffer (Larbi, 2006 citing Boyne et al 2003). In short, NPM cannot claim global success or a panacea for administrative reform in transitional countries.

In conclusion, legislative public hearings appear to offer the opportunity for public engagement. The outworkings of these in practice, if the Dalian case study and secondary evidence from five other Chinese cities is typical, suggests practical limitations some of which are bound up with the cultural origins of a paternalistic public sector in China and deference to authority. The emergence of a public service oriented government however appears to have less to do with a global modernisation agenda and more to do with internal reforms which are attempting to create trust between the citizen and state. This could fail, in part, because of the practical problems associated with the process of participation, rather than a genuine attempt on the part of officials to be more inclusive in seeking to arrive at decisions/regulations which are secured through engagement and consensus.

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ⁱⁱ Specifically entitled 'Draft Regulations of Dalian City on the Implementation of the Law of the People's Republic of China on the Safety of Road Traffic'.